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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

WARREN GARDNER, et al., on Behalf of
Themselves and All Others Similarly
Situated,

Plaintiffs,

v.

STARKIST CO., a Delaware Corporation,

Defendant.

Case No.: 19-cv-02561-WHO

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF MEMORANDUM OF
POINTS AND AUTHORITIES IN
OPPOSITION TO DEFENDANT'S
MOTION TO DENY CLASS
CERTIFICATION**

Date: October 21, 2020

Time: 2:00 p.m.

Place: Courtroom 2, 17th Floor

Judge: Hon. William H. Orrick

Pursuant to Federal Rule of Evidence 201, Plaintiffs respectfully request the Court take judicial notice of the following documents attached to the Declaration of Patricia N. Syverson, filed concurrently herewith (collectively, the “Requested Documents”):

Exhibit D: Key findings of the “Dolphin Safe National Survey” conducted by Public Opinion Strategies from September 12-17, 2016, *available at* http://iattc.org/Meetings/Meetings2016/IATTC-90b/AIDCP-34/Docs/_English/MOP-34-INF-A_Dolphin-Safe-National-USA-Survey.pdf.

Exhibit E: Thai Union Group, Sustainability Report 2016, *available at* <https://www.thaiunion.com/en/sustainability/report?category=report&page=2>

Exhibit F: Thai Union Group, 2018 Sustainability Report, *available at* <https://www.thaiunion.com/en/sustainability/report>.

A federal court may take judicial notice “if a party requests it and the court is supplied with the necessary information.” Fed. R. Evid. 201(c)(2). Judicial notice may be taken “at any stage of the proceeding.” Fed. R. Evid. 201(d).

Plaintiff cites the Requested Documents to inform the Court about what information is in the public realm in support of its argument that similar information is likely in StarKist’s possession, which Plaintiffs requested via discovery but have not yet been provided. *See* Memorandum of Points and Authorities filed concurrently herewith, at Section II.A. Thus, judicial notice is proper. *Von Saher v. Norton Simon Museum of Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010) (taking judicial notice of various newspapers, magazine, and books as an indication of what information was in the public realm at the time) (citing *Premier Growth Fund v. Alliance Capital Mgmt.*, 435 F.3d 396, 401 n. 15 (3d Cir. 2006)); *Heliotrope Gen. Inc. v. Ford Motor Co.*, 189 F.3d 971, 981 n.118 (9th Cir. 1999) (taking judicial notice “that the market was aware of the information contained in news articles submitted by the defendants”).

1 Dated: September 25, 2020

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CERTIFICATE OF SERVICE

I hereby certify that on September 25, 2020 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail notice list, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the Manual Notice list.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed the 25th day of September 2020.

/s/ Patricia N. Syverson
Patricia N. Syverson